

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SUZANNE DEGNEN, D.M.D., P.C.
d/b/a SUNSET TOWER FAMILY
DENTISTRY,

Plaintiff,

v.

DECISION SOFTWARE SYSTEMS,
INC. d/b/a DECISION SOFTWARE
SYSTEMS,

GERALD T. MERAR,

NATHAN J. SCHNURMAN, JR.,

and

JOHN DOES 1-10,

Defendants.

Cause No. 4:15-CV-883

JURY TRIAL DEMANDED

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, 1446, and 1453, Defendants Decision Software Systems, Inc., d/b/a Decision Software Systems, and Gerald T. Merar (“Defendants”) file this Notice of Removal of this action from the Missouri Circuit Court for the Twenty-First Judicial Circuit, St. Louis County, in which it is now pending, to the United States District Court for the Eastern District of Missouri. Removal is proper because this Court has original jurisdiction over claims arising under the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (the “TCPA”). In further support of this Notice of Removal, Defendants state as follows:

Commencement and Service

1. On February 13, 2015, plaintiff Suzanne Degnen, D.M.D., P.C. d/b/a Sunset Tower Family Dentistry filed a putative class action petition in the Missouri Circuit Court for the Twenty-First Judicial Circuit, St. Louis County, Cause No. 15SL-CC00538. Plaintiff alleged Defendants violated the TCPA by distributing unsolicited advertisements via a telephone facsimile machine.

2. Service of the petition on Defendants is deemed effective as of May 13, 2015, when Defendant Decision Software Systems was served with the petition. This Notice of Removal is being filed within thirty (30) days of receipt of the petition as required by 28 U.S.C. § 1446(b).

3. Defendant Nathan J. Schnurman, Jr., consents to the removal of this action.

Grounds for Removal

A. 28 U.S.C. § 1331

4. This Court has original jurisdiction over this action because it arises under a law of the United States, namely the TCPA. *See Mims v. Arrow Financial Services, LLC*, 132 S. Ct. 740 (2012).

5. For the foregoing reasons, removal of this action to this Court is proper pursuant to 28 U.S.C. §§ 1441(a) and (b).

Procedure for Removal

6. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81-2.03, Defendants file herewith a true and accurate copy of all process, pleadings, and orders filed in the state court, including the petition.

7. Pursuant to Local Rules 81-2.03 and 3-2.02, Defendants file herewith the appropriate filing fee, the Civil Cover Sheet, an Original Filing Form, and a Disclosure of Organizational Interests Certificate.

8. Venue is proper in this district under 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be provided promptly to counsel for plaintiff and Defendant Nathan J. Schnurman, Jr. and filed with the Clerk of the Circuit Court of St. Louis County, Missouri, under Cause No. 15SL- CC00538.

WHEREFORE, Defendants Decision Software Systems, Inc., d/b/a Decision Software Systems, and Gerald T. Merar hereby remove the above-referenced action now pending in the Missouri Circuit Court for the Twenty-First Judicial Circuit, St. Louis County to the United States District Court for the Eastern District of Missouri, Eastern Division.

SANDBERG PHOENIX & von GONTARD P.C.

By: /s/ Martin L. Daesch

Martin L. Daesch, #40494
Jesse B. Rochman, #60712
600 Washington Avenue - 15th Floor
St. Louis, MO 63101-1313
314-231-3332
314-241-7604 (Fax)
mdaesch@sandbergphoenix.com
jrochman@sandbergphoenix.com

*Attorneys for Defendants Decision Software
Systems, Inc. and Gerald T. Merar*

Certificate of Service

I hereby certify that on this 4th day of June, 2015, the foregoing was sent via electronic mail to the following counsel of record:

Ronald J. Eisenberg, Esq.
Robert Schultz, Esq.
Schultz & Associates LLP
640 Cepi Dr., Ste. A
Chesterfield, MO 63005-1221
reisenberg@sl-lawyers.com
rschultz@sl-lawyers.com
Attorneys for Plaintiff

/s/ Martin L. Daesch